REMARKS

Claims 1 through 9, and 13 through 20 remain pending in this Application. Claims 1, 3, 4 through 7, and 13 through 20 have each been currently amended. Claims 10 through 12 have each been canceled.

"Claim's 1-4 and 10-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cook (US 5,895,453)." Applicants have amended the claims to insure that they distinguish over Cook, as discussed in greater detail below.

Claim 1 as currently amended is now claiming the following:

> A method for detecting a fraudulent event by a patron in a retail establishment, comprising:
> capturing an image of a patron in a monitored area;
> establishing a rule defining said fraudulent event, said rule including at least one condition based upon observation in real time of an action undertaken by said patron, relative to at least one prior action or inaction by said patron;
> processing at least one image of said retail location to identify said condition; and
> performing a defined action if said rule is satisfied.

The combination of steps of the method of claim 1 (currently amended) for detecting a fraudulent event by a patron in a retail establishment are not anticipated or made obvious by the teachings of Cook. The method and system of Cook was designed and programmed to detect employee theft or fraud occurring at point of sale devices. Cook is not concerned with detecting fraudulent events by a patron in a retail establishment, as claimed by Applicants. Note in column 1, Cook's comments in lines 15, 16, 20, 21, 23, 24, and 35 through 39. It is clear

that Cook is concerned with the dishonesty of associates or employees of a retail establishment. Note further column 2, lines 29 through 32; column 5, lines 64 and 65; column 6, lines 9 through 11; column 11, lines 64 through 67 extending into column 12, lines 1, 2; and column 13, lines 18 through 21. Clearly, Cook teaches away from Applicants' invention as now claimed. Accordingly, claim 1 (currently amended) is patentable.

Claims 2 through 9 are each ultimately dependent from claim 1 (currently amended), and as such each are patentable for at least the same reasons as claim 1 (currently amended).

Claim 3 (currently amended) now reads as follow:

> The method of claim 1, wherein said fraudulent event is a patron stealing an item of clothing, the theft being detected in said processing step when a patron exits a changing area wearing a different article of clothing than entered with.

Cook does not teach or even suggest the detection step of claim 3 (currently amended). Accordingly, for this reason alone, claim 3 (currently amended) is patentable over Cook.

Claim 4 (currently amended) is now claiming the following:

> The method of claim 1, wherein said fraudulent event is a patron attempting to return an item without a receipt, said fraudulent event being detected in said processing step via satisfying the condition that the patron wasn't carrying the item upon entering the retail establishment.

Cook does not teach or even suggest the method of claim 4 (currently amended). Accordingly, for this reason alone, claim 4 (currently amended) is patentable over Cook. Similar comments apply to claims 5 through 7, each as currently amended, and to original claims 8 and 9.

Claims 10 through 12 have been canceled.

Claim 13 (currently amended) now reads as follows:

> A system for detecting a fraudulent event by a patron in a retail location, comprising:
>
> a memory that stores computer-readable code; and
>
> a processor operatively coupled to said memory, said processor configured to implement said computer-readable code, said computer-readable code configured to:
>
> establish a rule defining said fraudulent event, said rule including at least one condition based upon observation in real time of an action undertaken by said patron, relative to at least one prior action or inaction by said patron;
>
> process at least one image of said retail location to identify said condition; and
>
> perform a defined action if said rule is satisfied.

Cook does not teach or suggest the combination of elements of claim 13 (currently amended). Cook does not provide a process that is configured to from amongst other steps be configured to "establish a rule . . ." as called for in claim 13 (currently amended). Accordingly, claim 13 (currently amended) is patentable over Cook.

Claims 14 and 15, each as currently amended, are ultimately dependent from claim 13 (currently amended), and each are patentable over Cook for at least the same reasons as the latter. Also, claim 14 (currently amended) is patentable for at least the same reason as claim 3 (currently amended).

Claim 16 (currently amended) now reads as follows:

> A system for detecting a fraudulent event by a patron in a retail establishment, comprising:
>
> a memory that stores computer-readable code; and

a processor operatively coupled to said memory, said processor configured to implement said computer-readable code, said computer-readable code configured to:

obtain at least one image of said retail establishment;

analyze said image using video content analysis techniques to identify at least one predefined feature in said image associated with a rule defining said fraudulent event, said rule including at least one condition based upon observation of a present action undertaken by said patron, relative to at least one prior action or inaction by said patron; and

perform a defined action if said rule is satisfied.

Cook does not teach or suggest the combination of elements of claim 16 (currently amended). For example, Cook does not teach the use of a processor to "analyze said image using video content analysis . . ." as called for in claim 16 (currently amended). Accordingly, this claim is patentable over Cook.

Claim 17 and 18, each as currently amended, are patentable for at least the same reason as claim 16 (currently amended) from which each depends. Also, Cook does not teach or suggest the system as now claimed in claim 17 (currently amended) or the system as now claimed in claim 18 (currently amended). Accordingly, claims 17 and 18, each as currently amended, are patentable in and of themselves over Cook.

Claim 19 (currently amended) now reads as follows:

An article of manufacture for detecting a fraudulent event in a retail location, comprising:

a computer readable medium having computer readable code means embodied thereon, said computer readable program code means comprising:

a step to establish a rule defining said fraudulent event, said rule including at least one condition based upon observation in real time of an action undertaken by said

patron, relative to at least one prior action or inaction by said patron;

a step to process at least one image of said retail location to identify said condition; and

a step to perform a defined action if said rule is satisfied.

Cook does not teach the combination of elements of claim 19 (currently amended). For example, Cook does not teach or suggest the "step to establish a rule . . ." as now called for in claim 19 (currently amended). Accordingly, claim 19 (currently amended) is patentable over Cook.

Claim 20 (currently amended) now reads as follows:

An article of manufacture for detecting a fraudulent event by a patron in a retail establishment, comprising:

a computer readable medium having computer readable code means embodied thereon, said computer readable program code means comprising:

a step to obtain at least one image of said retail establishment;

a step to establish a rule defining said fraudulent event, said rule including at least one condition based upon observation in real time of an action undertaken by said patron, relative to at least one prior action or inaction by said patron;

a step to analyze said image using video content analysis techniques to identify at least one predefined feature in said image associated with said condition; and

a step to perform a defined action if said rule is satisfied.

From comments previously made, it is clear that Cook does not teach or even suggest the combination of elements of claim 20 (currently amended). Accordingly, claim 20 (currently amended) is patentable over Cook.

"Claim's 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook in view of Iizaka(US 6,654,047)." Applicants urge that claims 5 through 7, each as currently amended, and original claims 8 and 9 are each patentable for at least the same reasons as claim 1 (currently amended) from which each now depends. As previously mentioned, Cook is only concerned with employee theft, not with theft or fraudulent acts of a patron of a retail establishment. Iizaka is only concerned with a device and method for tracking the movement of a customer through a store via use of feature vectors related to a customer's image, in order to improve the layout of the store for increased efficiency. As indicated in Iizaka, column 2, lines 57 through 67, he is only interested in obtaining information concerning the routes that a person takes through a store, and the sex and age group of that person. As clearly stated in column 7, lines 47-50,Iizaka is concerned with "Information on the traffic line of each customer thus acquired is used as important materials in making a strategic decision on store layout, display, clerk arrangement, and others in running a store." Clearly, Iizaka is not concerned with theft by a patron of a store, or fraud committed by a patron in a store, let alone being concerned with employee theft being committed in a store. The case law is that there must be a teaching in a reference that would lead one of ordinary skill to combine the teachings of that reference with those of another reference or other references. Clearly that is absent here, and there will be no reason for one of ordinary skill in the art to look to combine the teachings of Cook and Iizaka, as indicated by the Examiner.

Applicants would like to bring to the attention of the Examiner, case holdings as follows below:

It is stated in In re Sernaker, 217 U.S.P.Q. 1, 6 (C.A.F.C. 1983): "Prior art references in combination do not

make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining their teachings."

Also as was stated in Uniroyal, Inc. v Rudkin-Wiley Corp., 5 U.S.P.Q.2d 1434 (C.A.F.C. 1988), "where prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than hindsight gleaned from the invention itself .... Something in the prior art must suggest the desirability and thus the obviousness of making the combination."

Applicants, as indicated above, have reviewed the references relied upon by the Examiner, and have also reviewed the prior art made of record and not relied upon. Applicants urge that the claims as now presented are not anticipated or made obvious by any of the cited references, whether taken individually or in any combination. Accordingly, Applicants urge that the claims as now presented be allowed, and the case passed on to issue.

Respectfully submitted,

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